

REMARKS

Claims 1-4, 7-10 and 12-35 are pending in this application and presented for examination. Claims 1-4, 7-10 and 12-35 stand rejected. Claims 1-2, 14, 16-19, 27, 31, 33 and 35 have been amended. Attached hereto is a marked-up version of the changes made to the claims by the current amendment. The attached page is captioned "Version with markings to show changes made":

Reconsideration of the application is respectfully requested in view of the above amendments to the claims and the following remarks. For the Examiner's convenience and reference, Applicant's remarks are presented in the order in which the corresponding issues were raised in the Office Action.

Claims 1, 27, 31, 33 and 35 have been amended to more particularly describe the present invention. Support for these amendments is found throughout the specification, specifically page 2, line 27, "[p]referably, the external grooves are recessed from the surface of the cylinder or sphere." See also page 2, lines 28-33. In addition, the term "pesticide" has been amended to "oral insecticide" in claims 1, 16-19, 27, 31, 33 and 35. These amendments find support at page 3, lines 1-2, and page 5, lines 32-33. Claims 2 and 14 have also been amended in order to correct minor typographical errors.

Applicant believes no new matter is present in this or any other portion of the present amendment.

I. The Invention

The present invention provides an insect bait station that maximizes the number of edges that an insect such as a fly, can rest, due to the fact that a curved surface, by definition, is composed by an infinite number of edges. Flies are attracted to a surface's edge and to baits that give off odors. The present invention relates to an insect trap for attracting and trapping an insect such as a fly. The trap comprises a body having an external longitudinal **recessed** groove for supporting an oral insecticide. The oral insecticide is held in the external **recessed** groove.

II. Rejection under 35 U.S.C. § 103(a) in view of Pfeiffer

The Examiner has maintained the rejection of claims 1, 12, 26-27, 31 and 33-34 as allegedly being obvious under 35 U.S.C. § 103(a) in view of Pfeiffer (U.S. Patent No. 1,286,763). To the extent the rejection is applicable to the amended set of claims, Applicant respectfully traverses the rejection.

The Examiner has maintained the allegation that Pfeiffer teaches an insect bait station with an external groove, 17. Applicant respectfully disagrees. Applicant respectfully directs the Examiner's attention to the previously submitted declaration by George Lindahl ("the Lindahl Declaration"). As set forth in paragraphs 8 and 9 of the Lindahl Declaration, Pfeiffer teaches "annular troughs or ledges" for 17 (page 1, line 80 of Pfeiffer), while the instant invention teaches and claims a "recessed groove." As taught by Pfeiffer, a trough is a holder or container for a poison or a viscous substance (page 1, lines 60-61). In contrast, the present invention teaches and claims grooves that are *recessed* from the surface (page 2, line 27). As there is no clearly defined surface from which the troughs of Pfeiffer can be recessed, Applicant submits that Pfeiffer fails to teach or suggest a recessed groove of the present invention. Accordingly, Applicant respectfully requests that the rejection be withdrawn.

The Examiner also alleges that the insecticide of Pfeiffer is self-adhering since it is viscous and some remains in the upper groove 17. The ledges of Pfeiffer are "holders or containers for either a poison or a viscous substance" (page 1, lines 60-61). In the case of Pfeiffer, the insecticide or viscous material is simply "dumped or poured upon the apex 20 whence it will flow or fall down into or over all of the various ledges 17" (page 1, lines 92-94). Again, paragraphs 8 and 9 of the Lindahl Declaration set forth that ledges 17 simply retain the insecticide as a result of their shape. Upon tilting the device of Pfeiffer, such as when removing it from its hanging position, the insecticide retained within the troughs will flow and fall down out of the troughs. Accordingly, Applicant submits that the insecticide is not self-adhering, but merely viscous, and as such, respectfully request that the rejection be withdrawn.

Given the mobility of the insecticide of Pfeiffer and its influence by gravity, the likelihood of human contact is very high. For example, if the device is not exactly vertical, toxic

material in a trough, under the force of gravity, can flow or fall down into the trough below or the gutter, and eventually onto a human handler beneath the device. This is very likely if the device were to be touched by a human handler and tilted, for example, when removing the device from its hanging position.

In contrast to Pfeiffer, the oral insecticide of the instant invention is recessed in a groove away from the surface wherein “the pesticide sticks to the body and stays within the groove even under the force of gravity” (please see page 4, line 34 to page 5, line 1). In the instant application, the oral insecticide cannot flow or fall out of the groove. In addition, since the oral insecticide is **recessed** from the surface of the device of the instant invention, any individual grasping the device would **not** be able to touch the oral insecticide. Advantageously, contact with a human handler is **minimized**. As discussed in paragraphs 8 and 9 of the Lindahl Declaration,

8. Importantly, another inventive feature of the present invention is that an un-baited part of the present device comes into contact with the handler, while, for example, being placed at the site to be treated. The present invention **minimizes** human contact while handling, and at the same time, presents baited landing surfaces to the fly from all directions.
9. Pfeiffer teaches a beehive device having a trough shaped base of annular form and a plurality of downwardly pressed feet. Pfeiffer teaches ledges that “hold” the insecticide. In Pfeiffer, the insecticide material is poured down the apex wherein the ledges retain insecticide. (Please see col 2, lines 87-96). Unlike the present invention, the Pfeiffer design **maximizes** potential human contact and exposure with the applied insecticide.

Applicant does not admit that a *prima facie* case of obviousness has been established. However, these advantages, which flow from the recessed nature of the groove, are not taught or suggested by the prior art, and are sufficient to overcome any alleged *prima facie* case of obviousness. As such, Applicant respectfully requests that the rejection be withdrawn.

III. Rejection under 35 U.S.C. § 103(a) in view of Pfeiffer and Conlee *et al.*

The Examiner has maintained rejections to claims 2-4, 7-10, 13-25, 28-30, 32 and 35 under 35 U.S.C. § 103(a) as being obvious in view of Pfeiffer (U.S. Patent No. 1,286,763)

and Conlee *et al.* (U.S. Patent No. 4,671,010). To the extent the rejection is applicable to the amended set of claims, Applicant respectfully traverses the rejection.

Claims 1, 27, 31, 33 and 35 have been amended to claim a "recessed groove." This amendment finds support at page 2, line 27 of the specification, "[p]referably, the external grooves are recessed from the surface of the cylinder or sphere." See also page 2, lines 28-33. In addition, claims 1, 16-19, 27, 31, 33 and 35 have been amended to claim an "oral insecticide" in place of "pesticide." This amendment finds support at page 3, lines 1-2, and page 5, lines 32-33. These amendments are intended to claim the present invention with greater particularity.

To present a *prima facie* case of obviousness, the prior art must teach all the limitations of the claim, MPEP § 2143.03:

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). "All words in a claim must be considered in judging the patentability of that claim against the prior art." In re Wilson, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).

As discussed above, the instant invention claims an insect bait station with a **recessed** groove for support a self-adhering **oral** insecticide. Pfeiffer teaches troughs that retain a viscous material, while Conlee *et al.* teaches a cylinder with a contact insecticide. Given that both Pfeiffer and Conlee *et al.* fail to teach either feature, i.e., i) a **recessed** groove, or ii) a self-adhering **oral** insecticide, Applicant submits a *prima facie* case of obviousness cannot be maintained. Accordingly, Applicant respectfully requests that the rejection be withdrawn.

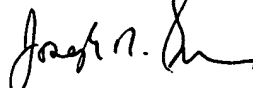
Joseph B. Prullage
Application No.: 09/441,035
Page 8

PATENT

CONCLUSION

In view of the foregoing, Applicant believe all claims now pending in this Application are in condition for allowance and an action to that end is urged. If the Examiner believes a telephone conference would aid in the prosecution of this case in any way, please call the undersigned at 925-472-5000.

Respectfully submitted,



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VERSION WITH MARKINGS TO SHOW CHANGES MADE

1 1. (Three-times Amended) An insect bait station for attracting and killing an
2 insect, said insect station comprising:

3 **[a body having an external longitudinal groove for supporting a self-adhering**
4 **pesticide.]**

5 a body having an external surface, said body having at least one external longitudinal
6 recessed groove for supporting a self-adhering oral insecticide.

1 2. (Amended) The insect bait station according to claim 1, wherein said body
2 is cylindrical or **[sperical]spherical**.

1 14. (Amended) The insect bait station according to claim 1, wherein said body
2 is **[injected]injection** molded.

1 16. (Amended) The insect bait station according to claim 15, wherein said
2 **[pesticide]oral insecticide** is a fast acting oral insecticide.

1 17. (Amended) The insect bait station according to claim 15, wherein said
2 **[pesticide]oral insecticide** is a member selected from the group consisting of nitromethylene and
3 phenyl pyrazole.

1 18. (Amended) The insect bait station according to claim 15, wherein said
2 **[pesticide]oral insecticide** sticks to said body under the force of gravity.

1 19. (Amended) The insect bait station according to claim 17, wherein said
2 **[insecticide]oral insecticide** is a fast acting oral insecticide.

1 27. (Amended) An insect bait station for killing *Musca domestica*, said station
2 comprising:

3 a body having an external surface oriented generally vertically, said external surface
4 comprising at least one recessed groove configured to support **[a pesticide]**an oral
5 insecticide of a viscous liquid or solid formulation so that said **[pesticide]**oral
6 insecticide is exposed to said external surface of said body.

1 31. (Twice Amended) An insect bait station comprising:
2 a body including a continuous external surface having at least one external longitudinal
3 recessed groove for supporting **[a pesticide]**an oral insecticide, said at least one
4 external longitudinal groove exposing said **[pesticide]**oral insecticide to said
5 external surface of said body and providing one or more edges for insects to land
6 on or near said **[pesticide]**oral insecticide.

1 33. (Twice Amended) A method for killing an insect, said method comprising:
2 providing a station body having at least one external longitudinal recessed groove on an
3 external surface to provide one or more edges for said insect to land; and
4 applying a self-adhering **[pesticide]**oral insecticide on said external longitudinal recessed
5 groove to expose said **[pesticide]**oral insecticide to said external surface and place
6 said **[pesticide]**oral insecticide at or near said one or more edges.

1 35. (Amended) An insect bait station for killing *Musca domestica*, said station
2 comprising:
3 a cylindrical body having an external surface oriented generally vertically, said external
4 surface comprising at least one recessed groove configured to support **[a**
5 **pesticide]**an oral insecticide of a viscous liquid or solid formulation so that said
6 **[pesticide]**oral insecticide is exposed to said external surface of said body,
7 wherein said **[pesticide]**oral insecticide is a member selected from the group
8 consisting of a nitromethylene and a phenyl pyrazole; and wherein said external
9 surface of said body provides one or more edges for insects to land on or near said
10 **[pesticide]**oral insecticide.

APPENDIX A: PENDING CLAIMS

1 1. (Three-times Amended) An insect bait station for attracting and killing an
2 insect, said insect station comprising:
3 a body having an external surface, said body having at least one external longitudinal
4 recessed groove for supporting a self-adhering oral insecticide.

1 2. (Amended) The insect bait station according to claim 1, wherein said body
2 is cylindrical or spherical.

1 3. (As filed) The insect bait station according to claim 2, wherein said body
2 comprises a cylinder.

1 4. (As filed) The insect bait station according to claim 3, wherein said groove
2 is elongated.

1 7. (As filed) The insect bait station according to claim 4, wherein the height
2 of said groove is at least two times larger than the width of said groove.

1 8. (As filed) The insect bait station according to claim 3, wherein said body
2 has a plurality of grooves.

1 9. (As filed) The insect bait station according to claim 3, wherein said
2 cylinder has a diameter of between about ¼ inch to about 2 inches.

1 10. (As filed) The insect bait station according to claim 3, wherein said
2 cylinder is between about 6 inches to about 18 inches in length.

1 12. (As filed) The insect bait station according to claim 1, further comprising
2 a hanger member connected to said body.

1 13. (As filed) The insect bait station according to claim 1, wherein said body
2 is extrusion molded.

1 14. (Amended) The insect bait station according to claim 1, wherein said body
2 is injection molded.

1 15. (As filed) The insect bait station according to claim 3, further comprising
2 a pesticide disposed in the external groove wherein said pesticide is a viscous liquid or solid
3 formulation.

1 16. (Amended) The insect bait station according to claim 15, wherein said oral
2 insecticide is a fast acting oral insecticide.

1 17. (Amended) The insect bait station according to claim 15, wherein said oral
2 insecticide is a member selected from the group consisting of nitromethylene and phenyl
3 pyrazole.

1 18. (Amended) The insect bait station according to claim 15, wherein said oral
2 insecticide sticks to said body under the force of gravity.

1 19. (Amended) The insect bait station according to claim 17, wherein said oral
2 insecticide is a fast acting oral insecticide.

1 20. (As filed) The insect bait station according to claim 1, further comprising
2 a pest attractant reservoir connected to said body.

1 21. (Once Amended) The insect bait station according to claim 20, wherein
2 said body has a top portion and a bottom portion, said pest attractant reservoir being affixed to
3 said bottom portion.

1 22. (As filed) The insect bait station according to claim 20, wherein said pest
2 attractant reservoir being affixed to said hanger member.

1 23. (As filed) The insect bait station according to claim 20, wherein said pest
2 attractant is an insect pheromone.

1 24. (As filed) The insect bait station according to claim 20, wherein said pest
2 attractant is a feeding attractant.

1 25. (As filed) The insect bait station according to claim 1, further comprising
2 a cylinder sheath.

1 26. (As filed) The insect bait station according to claim 1, wherein said
2 pesticide is formulated to kill *Musca domestica*.

1 27. (Amended) An insect bait station for killing *Musca domestica*, said station
2 comprising:

3 a body having an external surface oriented generally vertically, said external surface
4 comprising at least one recessed groove configured to support an oral insecticide
5 of a viscous liquid or solid formulation so that said oral insecticide is exposed to
6 said external surface of said body.

1 28. (As filed) The insect bait station according to claim 27, wherein said
2 external surface of said body comprises a plurality of generally vertical grooves.

1 29. (As filed) The insect bait station according to claim 27, wherein said body
2 is generally cylindrical.

1 30. (As filed) The insect bait station according to claim 27, wherein said at
2 least one groove covers an area of the external surface equal to at least about 30% of the total
3 area of said external surface.

1 31. (Twice Amended) An insect bait station comprising:
2 a body including a continuous external surface having at least one external longitudinal
3 recessed groove for supporting an oral insecticide, said at least one external
4 longitudinal groove exposing said oral insecticide to said external surface of said
5 body and providing one or more edges for insects to land on or near said oral
6 insecticide.

1 32. (As filed) The insect bait station according to claim 31, wherein said body
2 is generally cylindrical.

1 33. (Twice Amended) A method for killing an insect, said method comprising:
2 providing a station body having at least one external longitudinal recessed groove on an
3 external surface to provide one or more edges for said insect to land; and
4 applying a self-adhering oral insecticide on said external longitudinal recessed groove to
5 expose said oral insecticide to said external surface and place said oral insecticide
6 at or near said one or more edges.

1 34. (As filed) The method according to claim 33, wherein said insect is a fly.

1 35. (Amended) An insect bait station for killing *Musca domestica*, said station
2 comprising:

3 a cylindrical body having an external surface oriented generally vertically, said external
4 surface comprising at least one recessed groove configured to support an oral
5 insecticide of a viscous liquid or solid formulation so that said oral insecticide is
6 exposed to said external surface of said body, wherein said oral insecticide is a
7 member selected from the group consisting of a nitromethylene and a phenyl
8 pyrazole; and wherein said external surface of said body provides one or more
9 edges for insects to land on or near said oral insecticide.